

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Derrick Gibbs,

Plaintiff,

v.

Case No. 1:21cv075

Hamilton County Sheriff's  
Department, *et al.*,

Defendants.

**ORDER**

This matter is before the Court on the Report and Recommendation (“R&R”) filed by the Magistrate Judge on April 4, 2023 (Doc. 48).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court notes, however, that though such notice was served upon Plaintiff; it was returned to the Court due to Plaintiff’s failure to apprise the Court of his change of address. In this Court’s notice to Plaintiff on applicable court procedures, which Plaintiff received, Plaintiff was ordered to inform the Court promptly of any change of address. By failing to keep the Court apprised of his current address, Plaintiff demonstrates a lack of prosecution of his action. See, e.g., *Theede v. United States Department of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999)(Failure to object to a Magistrate Judge’s Report and Recommendation due to delay resulting from party’s failure to bring to the Court’s attention a change in address constitutes failure to object in a timely manner. Because the Recommendation was mailed to the last known address, it was properly served, and party waived right to

appellate review). See also *Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991)(A *pro se* litigant has an affirmative duty to diligently pursue the prosecution of his cause of action); *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at \*1 (6th Cir. May 2, 1994) (A *pro se* litigant has a duty to supply the court with notice of any and all changes in his address). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Accordingly, it is **ORDERED** that the R&R (Doc. 48) of the Magistrate Judge is hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, the case is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute; and terminated from this Court's docket.

**IT IS SO ORDERED.**

s/Michael R. Barrett  
Michael R. Barrett, Judge  
United States District Court